



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/854,778	05/14/2001	Edward O. Clapper	INTL-0564-US (P11332)	8166

7590 10/21/2004  
Timothy N. Trop  
TROP, PRUNER & HU, P.C.  
8554 KATY FWY, STE 100  
HOUSTON, TX 77024-1805

EXAMINER

HOOSAIN, ALLAN

ART UNIT	PAPER NUMBER
----------	--------------

2645

DATE MAILED: 10/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/854,778

Applicant(s)

CLAPPER, EDWARD O.

Examiner

Allan Hoosain

Art Unit

2645

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1-5,7-15,17-43

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

*Allan Hoosain*  
Allan Hoosain  
Primary Examiner  
Art Unit: 2645

Continuation of 5. does NOT place the application in condition for allowance because: The arguments in the 8/5/04 Remarks were not persuasive because of the same reasons given in the Final Office Action:

The consumer and clerk are customers as indicated in the Final Office Action. In addition, Beach teaches pass through data (text) communications between terminals of users at different sites (Col. 6, lines 10-15).

Also, Ogasawar's transferring of information allows a user to use the terminal and, therefore, provides activation. In addition, Ogasawar teaches the server identifies the user with the terminal which further supports activation after the IC card (credit card) is swiped (Col. 10, lines 18-38). Also, Beach teaches the use of a customer loyalty card which is swiped to allow activation of a portable terminal for use by a consumer (Col. 7, lines 3-21). Examiner respectfully believes that the loyalty card functions similarly to a credit card and it would have been obvious to use a credit card as suggested by Ogasawar.

With respect to Claim 35, Beach also teaches consumer preferences and displaying preference information to a consumer (Col. 11, lines 1-11). This is possible because Beach's system knows where each terminal is located when an item is scanned so that the preference information is automatically sent to the consumer terminal.